

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

JUSTIN SAMRA and HEALFAST, INC.,

Plaintiffs,

-- against --

FORTITUDE HEALTH, LLC,

Defendant,

UPS INTERNATIONAL,

Third-Party Deponent.

Case No. _____

DECLARATION OF MEGAN J.
ABNER IN SUPPORT OF
FORTITUDE HEALTH, LLC'S
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS
IN RESPONSE TO SUBPOENA

I, Megan J. Abner, declare under penalty of perjury, as follows:

1. I am an associate attorney at the law firm The Law Offices of Michael D. Steger, counsel for Defendant Fortitude Health, LLC in a trademark infringement action in the United States District Court for the Eastern District of New York captioned *Samra et al v. Fortitude Health, LLC*, 2:22-CV-592(JMA)(ARL)(the "New York Action"). I submit this Declaration in support of Fortitude Health, LLC's Motion to Compel Production of Documents on Third-Party Deponent UPS International.

2. I am familiar with all of the facts and circumstances in this action described herein and, if called upon to testify thereon, I would and could testify competently thereto.

3. Our firm represents Defendant Fortitude in the New York Action.

4. On July 6, 2023, our office issued a notice of Subpoena to Produce Documents, Information, or Objects in a Civil Action for third party UPS on counsel for Plaintiffs Justin Samra and Healfast, Inc. A true and correct copy of the subpoena is attached hereto as Exhibit A.

5. Plaintiffs were contemporaneously notified of the subpoena on UPS and Fortitude's intent to serve the same. A true and correct copy of Fortitude's communications with Plaintiffs' counsel containing the notice of subpoena is attached hereto as Exhibit B.

6. UPS' registered agent listed with the Stater of Georgia Department of State is CSC of Cobb County, Inc. at 192 Anderson Street SE, Ste 125, Marietta, Georgia 30060. A true and correct copy of UPS International's business records from the Georgia Secretary of State's website is attached hereto as Exhibit C.

7. On July 17, 2023, the subpoena was served on UPS' registered agent. A true and correct copy of the process server's affidavit of service is attached hereto as Exhibit D.

8. The subpoena contained a return date of August 2, 2023, at 9:00 AM at the offices of Richard C. Wayne & Associates, 100 Hammond Drive, Atlanta, GA 30328.

9. Third party deponent UPS did not object to or otherwise respond to the subpoena by the August 2 deadline.

10. On August 8, 2023, I emailed UPS' Deputy General Counsel Emily Johnson inquiring about the status of UPS' subpoena response and attaching a copy of the subpoena and affidavit or service. A true and correct copy of this correspondence is attached hereto as Exhibit E.

11. On August 9, 2023, we received a phone call from Johathan Peak, stating that his law firm, Weinberg Wheeler Hudgins Gunn & Dial, LLC, represented UPS regarding the subpoena.

12. On August 11, 2023, a series of email communications began between Mr. Peak, me, and Michael D. Steger concerning UPS's response – and failure to respond to the subpoena. A true and correct copy of these communications to date are attached hereto as Exhibit F.

13. Mr. Peak has failed to respond to any of our communications since August 24, 2023. To date, UPS has failed to comply with the subpoena, serve any objections thereto, or indicate whether it intends to respond at all.

14. The documents that Fortitude seeks via the subpoena are necessary for the prosecution of its trademark infringement action against Plaintiffs Justin Samra and Healfast Inc., as they are required to establish, among other things, the amount and types of infringing consumer goods that Samra and Healfast imported into the United States.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Executed this 6th day of September, 2023 at Orangeburg, New York.



MEGAN J. ABNER